(19,095.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

No. 129.

SALLIE J. McDANIEL, NANNIE A. HOSHALL, AND MARY E. JACKSON, APPELLANTS,

vs.

GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF ARKANSAS.

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1 In the United States Circuit Court for the Eastern Division of the Eastern District of Arkansas.

Be it remembered, that on the 27th day of March, 1902, complaint in equity was filed in the clerk's office of said court, which record entry and complaint are in words and figures following, to-wit:

Record Entry on Filing Bill of Complaint.

March 27th, 1902.

SALLIE J. McDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,
vs.
GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Company, a Corporation; Meyer Brothers Drug Company, a Corporation; Liquid Carbonic Acid Manufacturing Company, a Corporation; The Dr. J. H. McLean Medicine Company, a Corporation; Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, a Corporation; National Lead Company, a Corporation; Henry W. Hoyt, Administrator of the Estate of John W. Andrews, Deceased; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Company, a Corporation; Van Vleet-Mansfield Drug Company, a Corporation; Claus Shear Company, a Corporation; The Coco Cola Company, a Corporation; Alfred Wright, Meriden Silver Plate Company, a Corporation, and C. F. Simmons Medicine Company, a Corporation, Defendants. } 105.

Now on this day come the complainants, by their solicitors, Messrs. G. B. Webster and J. R. Beasley, and file their bill of
2 complaint against the defendants herein.

Attest: EMERSON R. CRUM, *Clerk.*

Bill of Complaint.

In the Circuit Court of the United States for the Eastern Division of the Eastern Judicial District of Arkansas.

SALLIE J. McDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,
vs.
GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Company, a Corporation; Meyer Brothers Drug Company, a Corporation; Liquid Carbonic Acid Manufacturing Company, a Corporation; The Dr. J. H. McLean Medicine Company, a Corporation; Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, a Corporation; National Lead Company, a Corporation; Henry W. Hoyt, Administrator of the Estate of John W. Andrews, Deceased; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Company, a Corporation; Van Vleet-Mansfield Drug Company, a Corporation; Claus Shear Company, a Corporation; The Coco Cola Company, a Corporation; Alfred Wright, Meriden Silver Plate Company, a Corporation, and C. F. Simmons Medicine Company, a Corporation, Defendants. } Equity.

To the honorable the judges of the circuit court of the United States for the eastern division of the eastern judicial district of Arkansas, sitting in equity:

3 Sallie J. McDaniel, Nannie A. Hoshall and Mary E. Jackson, citizens and residents of the State of Arkansas within the meaning of the laws fixing the jurisdiction of this honorable court, bring this their bill of complaint against George M. Traylor, John F. Stratton, John F. Smith, Alfred Wright and Solon Palmer, citizens and residents of the State of New York, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, C. F. Simmons Medicine Company, the Dr. J. H. McLean Medicine Company, Augusta Hirschl, Meyer Bendheim, Carl Bendheim, Henry W. Hoyt, administrator of the estate of John W. Andrews, deceased, citizens and residents of the State of Missouri, A. S. Aloe Company, a citizen and resident of the State of Illinois, National Lead Company, a citizen and resident of the State of New Jersey, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupper-

schmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpmann, Memphis Paper Company and Van Vleet-Mansfield Drug Company, citizens and residents of the State of Tennessee, Meriden Silver Plate Company, a citizen and resident of the State of Connecticut, Claus Shear Company, a citizen and resident of the State of Ohio, and the Coco Cola Company, a citizen and resident of the State of Georgia, within the meaning of the laws fixing the jurisdiction of this honorable court; and thereupon your orators show unto your honors:

1. That Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, the C. F. Simmons Medicine Company, and the Dr. J. H. McLean Medicine Company are corporations organized and existing under and by virtue of the laws of the State of Missouri. That Augusta Hirschl, Meyer H. Bendheim and Carl Bendheim are copartners under the firm name of Hirschl and Bendheim; that William N. Wilkerson and Thomas H. Chilton are co-partners under the firm name of W. N. Wilkerson and Company; that J. C. Mendenhall and John Doe are co-partners under the firm name of J. C.
4 Mendenhall and Company; that Abraham Goodman and Benjamin Goodman are co-partners under the firm name of Goodman Brothers; that Solomon Sternberg, David Sternberg and William H. Sternberg are co-partners under the firm name of Sternberg and Sons; that Henry W. Hoyt is the administrator of the estate of John W. Andrews, deceased; that A. S. Aloe Company is a corporation organized and existing under and by virtue of the laws of the State of Illinois, and that National Lead Company is a corporation existing under and by virtue of the laws of the State of New Jersey; that Meriden Silver Plate Company is a corporation organized and existing under and by virtue of the laws of the State of Connecticut and that Claus Shear Company is a corporation organized and existing under and by virtue of the laws of the State of Ohio, and the Coco Cola Company is a corporation organized and existing under and by virtue of the laws of the State of Georgia; and that Memphis Paper Company and Van Vleet-Mansfield Drug Company are corporations organized and existing under and by virtue of the laws of the State of Tennessee.

2. And your orators further show unto your honors that the Crunden-Martin Woodenware Company is the successor in interest of the Martin Woodenware Company in the matters and things hereinafter mentioned, and that the National Lead Company has heretofore acquired and now owns all the assets and property formerly belonging to the Collier white lead and oil works, including the claim and demand hereinafter described and charged to have been allowed in favor of said lead and oil works, and that Henry W. Hoyt, administrator of the estate of John W. Andrews, deceased, has heretofore acquired and succeeded to all the interest of J. W. Andrews and Company in and to the claim and demand herein-

after mentioned and charged to have been allowed in favor of said J. W. Andrews and Company against the estate of Hiram Evans, deceased, and that Van Vleet-Mansfield Drug Company has
5 succeeded to all the interest of Van Vleet and Company in the matters and things hereinafter stated.

3. And your orators further show unto your honors that on the 13th day of April, 1891, one Hiram Evans, then resident in the county of St. Francis, in the State of Arkansas, died intestate, possessed of a large amount of personal property, exceeding in value the sum of twelve thousand dollars, and seized in fee of the following described real estate located in the said county and State, to-wit:

S. E. ¼ of section 9,
S. ½ of S. W. ¼ section 9,
S. W. ¼ of section 10,
S. E. ¼ of S. E. ¼ of section 10,
S. ½ of N. E. ¼ of section 10,
S. W. ¼ of N. W. ¼ of section 9,
N. W. ¼ of N. E. ¼ of section 16,
N. E. ¼ of N. W. ¼ of section 16,
S. ½ of N. E. ¼ of section 16,
N. W. ¼ of S. W. ¼ of section 16,

all in township four (4) and in range three (3) east, and containing in all 760 acres of land more or less, which said real estate was and still is of the value of about sixteen thousand dollars; that the said Evans left him surviving as his only heirs at law, your orators and their three brothers James Evans, William E. Evans and John Evans.

4. That on the 21st day of April, 1891 James Evans, one of the sons of the said Hiram Evans, was duly appointed by the probate court of St. Francis county aforesaid, administrator of the estate of said Hiram Evans, deceased, and thereafter, to-wit, on the 4th day of May, 1891, duly qualified as such and received letters testamentary and proceeded to take possession of all the assets of said estate, and that the said James Evans continued to act as such
6 administrator until the time of his death as hereinafter set forth, but wholly failed and neglected to make any settlements of his accounts with the said estate in the manner and form required by law.

5. And your orators further show unto your honors that among the assets of the said Hiram Evans, deceased, which came into the hands of his said administrator was a certain drug store in the town of Forrest City, Arkansas, together with all the stock of goods, fixtures, book accounts and other chattels contained therein, all of which the said administrator on or about the 1st day of May, 1891, sold and delivered to one John Evans; that the said John Evans thereupon took possession of the same and operated and conducted the said business in his own name and that while so operating and conducting the same he, the said John Evans, contracted and incurred

debts and obligations to the several defendants herein, aggregating the sum of three thousand dollars ($3000.00), as well as debts and obligations to various other persons, and thereafter became and was insolvent and unable to pay his said debts and obligations in full. That on or about the 27th day of May, 1892, the said John Evans transferred and delivered to the said James Evans, administrator, the said drug store and all that then remained of the stock of goods, fixtures and book accounts, and thereby rendered himself wholly and totally insolvent. That thereupon the defendants herein conspired, colluded and confederated together and with the said John Evans and with the said James Evans, administrator, to secure the payment of their said claims and demands against the said John Evans, out of the assets of the said estate of Hiram Evans, deceased, and, so conspiring and confederating, the said defendants presented to the probate court of St. Francis county, Arkansas, and the said James Evans, administrator, fraudulently and illegally approved for allowance against the estate of said Hiram Evans, de-
7 ceased, the several claims and demands against the said John Evans held by the said defendants, as follows to-wit:

Geo. M. Traylor	$21.88
The Claus Shear Co	24.48
Solon Palmer	26.44
Hirschell & Bendheim	17.50
Goodman Bros	15.00
Jno. F. Stratton & Son	71.28
Coco Cola Co	14.90
Jno. F. Smith	32.43
Liquid Carbonic Acid Mfg. Co	4.00
W. N. Wilkerson & Co	589.88
A. S. Aloe Co	4.23
The Dr. McLean Med. Co	6.80
Meyer Bros. Drug Co	548.98
Meyer Bros. Drug Co	400.71
Meyer Bros. Drug Co	284.17
Martin Wooden Ware Co	34.61
C. F. Simmons Med. Co	59.27
Collier white lead and oil works	35.63
J. C. Mendenhall Co	23.89
J. W. Andrews Co	33.45
Harpman Bros	88.25
R. Kupperschmidt	34.94
Van Vleet & Co	15.85
Alfred Wright	73.53
Meriden Silver Plate Co	125.69
Meriden Silver Plate Co	125.69
The Memphis Paper Co	8.85
Sternberg & Sons	45.25

And they, the said defendants and the said administrator, still conspiring and confederating together, procured the judgment of the said probate court establishing the same against the said estate by concealing from the said court the fact that the same were the debts and obligations of the said John Evans and cloaking the same under the name of expenses of administration of the said estate, all of which transactions were part of the same scheme and were participated in by each and all of the said defendants and by said John Evans and said James Evans, administrator.

6. And your orators further show unto your honors that the said probate court was by the law of the State of Arkansas wholly without jurisdiction to render judgment establishing the said claims and demands of the defendants herein against the said estate of Hiram Evans, deceased, even though their said claims and demands had been for goods, wares and merchandise sold and delivered to the said administrator instead of to the said John Evans, and that by
8 reason of the premises all the proceedings in said court touching the said judgments were *coram non judice* and null and void; and that the said judgments of said court establishing and allowing the respective claims and demands of the defendants herein against the said estate were wholly the result of the conspiracy and confederation hereinbefore mentioned, and the fraud practiced in pursuance thereof as aforesaid, and are, therefore, in equity and good conscience, void and ineffectual for any purpose whatsoever and ought not to be enforced, but that nevertheless the same are at law liens upon the real estate hereinbefore described and charges against the respective interests of your orators therein.

7. And your orators further show unto your honors that in pursuance of the conspiracy and confederation hereinbefore mentioned, they, the defendants herein and the said John Evans and the said James Evans, concealed from your orators the matters and things hereinbefore complained of, and failed to disclose to your orators the sale of the said drug store to the said John Evans, and the fact that the said claims and demands of the defendants herein were the personal debts and obligations of the said John Evans; that your orators were unable and did not discover the same until long afterwards, but that immediately upon such discovery your orators filed their bill in the chancery court of St. Francis county, Arkansas, in April, 1895, against these defendants, or their predecessors in interest, setting up, among other things, the matters and things hereinbefore complained of, and that after a hearing their said bill was by the said court dismissed, from which action and ruling of the said court your orators prosecuted their appeal to the supreme court of Arkansas where the judgment of said chancery court was affirmed, but without prejudice to your orators as to any of the claims and demands of the defendants herein, all of which more fully appears from the mandate of said supreme court, a copy of which, marked "Exhibit A" is herewith filed and made
9 part hereof; that thereupon your orators, acting upon the advice of counsel, set up the matters and things herein com-

plained of by way of cross-bill and defense to a certain petition praying that a day be set for the sale under a previous order of sale of the real estate in the first paragraph of this bill of complaint mentioned and described for the purpose of paying certain claims allowed against the said estate of Hiram Evans, deceased, among which were the claims and demands hereinbefore mentioned, which said petition was on the 15th day of January, 1900, filed in the probate court of St. Francis county, Arkansas, by H. P. Gorman, administrator *de bonis non* of the said estate of Hiram Evans, deceased, and was then pending in the circuit court of the said county on appeal; that the said cross-bill of your orators pended continuously in the said circuit court and in the supreme court of Arkansas until the 11th day of January, 1902, when it was held and determined by the said supreme court that neither the said probate court nor the said circuit court on appeal had jurisdiction to hear or determine equitable issues, and that your orators' remedy lay in an original proceeding in a court of competent chancery jurisdiction, and that the said action and ruling of the said supreme court was without prejudice to your orators' beginning and maintaining this bill of complaint.

8. And your orators further show unto your honors that under the law of the State of Arkansas the aforesaid judgments of the probate court of St. Francis county, Arkansas, allowing and classifying the said false, fraudulent and fictitious claims and demands of the said defendants, passed beyond the control of said probate court at the expiration of the term at which the same were rendered, and that thereafter it was not within the power of the said probate court to alter, amend or set aside the same; that the time within which your orators might have taken an appeal, or have compelled the said administrator to take an appeal from the said judgment, had expired long prior to the time when your orators acquired knowledge of the matters and things hereinbefore complained of; and that by reason thereof your orators are wholly without remedy in the premises unless the relief hereinafter prayed be granted.

9. And your orators further show unto your honors that all the acts and doings of the defendants toward procuring the said judgments of the probate court of St. Francis county, Arkansas, were wrongful, fraudulent and inequitable, and tend to the manifest wrong, injury and oppression of your orators, and that in equity and good conscience the said defendants ought not to have or enjoy the benefit or advantage of the said judgments.

10. In consideration whereof and for as much as your orators are without remedy in the premises and can only have relief in a court of equity, where matters of like nature are properly cognizable; to the end, therefore, that your orators may have the relief which in good conscience they ought to have, your orators pray the aid of this honorable court, and that the said judgments of the probate court of St. Francis county, Arkansas, be set aside and for naught

held and esteemed, and be decreed not to be valid or lawful liens upon or against the real estate described in the first paragraph hereof, or upon or against the right, title and interest of your orators in the same; and that the defendants be forever enjoined and restrained from asserting or attempting to assert or enforce the said judgments or to take any manner of benefit, profit or advantage thereunder; and that, all the defendants herein being without the limits of the jurisdiction of this court and beyond the reach of subpœna, your honors may grant an order directing that they be notified of this proceeding by publication, according to the provisions of the act of Congress approved March 3rd, 1875; and that the defendants may answer, but not under oath (such oath being
11 hereby waived), according to the practice in equity, all and singular, the matters and things hereinbefore charged and stated, and may stand to, abide and perform all such orders, directions and decrees as may be made against them in the premises.

And your orators pray your honors to grant unto them such other and further relief in the premises as the circumstances may require and as may be meet and agreeable to equity and good conscience.

And your orators, as in duty bound, will ever pray.

G. B. WEBSTER AND
J. R. BEASLEY,
Solicitors for Complainants.

STATE OF ARKANSAS, }
County of St. Francis, } ss:

Mrs. Mary E. Jackson, one of the complainants in the foregoing bill of complaint, makes oath and says that the statements therein contained are true, except such as are alleged to be made upon information and belief, and those she verily believes to be true.

MARY E. JACKSON.

Subscribed and sworn to before me, this the 26th day of March, 1902.

S. H. MANN,
[SEAL.] *Notary Public, St. Francis County, Arkansas.*

My commission expires Dec. 18th, 1904.

Endorsed: No. 105. In the cir. ct. of U. S. for east. div. of east. jud. dist. of Arkansas. Sallie J. McDaniel, *et al.* plaintiff, *vs.* George M. Traylor, *et al.* defendants. Equity. Filed March 27th, 1902. Emerson R. Crum, clerk. Copy of within complaint handed R. W. Nicholls, Esq., attorney, this April 4th, 1902. Emerson R. Crum, clerk. Copy of within bill mailed Messrs. Norton & Prewett, Forrest City, Ark., this Apr. 4, 1902. Emerson R. Crum, clerk. Copy of within complaint handed R. W. Nicholls, att'y, this December 2nd, 1902. Emerson R. Crum, clerk.

12 EXHIBIT "A."

Mandate.

STATE OF ARKANSAS, } *sct:*
In the Supreme Court, }

Be it remembered that — a term of the supreme court of the State of Arkansas begun and held at the court house in the city of Little Rock, on the 22nd day, being the 4th Monday of May, A. D. 1899, amongst others were the following proceedings, on the 25th day of November, 1899, a day of said term:

W. E. EVANS ET AL., Appellants,
vs.
E. A. ROLFE, Adm'r Estate of James Evans, Dec'd, *et al.*, Appellees.
} Appeal from St. Francis Circuit Court, in Chancery.

This cause came on to be heard upon the transcript of the record of the circuit court of St. Francis county in chancery, and was argued by the solicitors of the parties, in consideration whereof it is the opinion of the court that there is no reversible error in the proceedings and decree of said circuit court in chancery in this cause.

It is therefore ordered and decreed that the decree of said circuit court in chancery in this cause be and the same is hereby in all things affirmed with costs, but without prejudice to appellants as to the debts accruing subsequent to the death of H. Evans; the injunction issued in this cause is hereby dissolved.

It is further ordered and decreed that said appellees recover of said appellants all their costs in this court, in this cause expended, and have execution thereof as upon judgments at law.

In testimony that the above is a true copy of the decree of said supreme court therein, I, P. D. English, clerk of said supreme court, hereto set my hand and affix the seal of said court, at my office in the city of Little Rock, this Jan. 9, 1900.

[SEAL.]

P. D. ENGLISH, *Clerk*,
By J. H. CAMPBELL, *D. C.*

Endorsed: Filed Mar. 27, 1902. Emerson R. Crum, clerk.

13 *Bond for Costs.*

In the Circuit Court of the United States for the Eastern Division of the Eastern District of Arkansas.

SALLIE J. MCDANIEL ET AL., Plaintiffs,
v.
GEORGE M. TRAYLOR ET AL., Defendants.

We, Sallie J. McDaniel, Nannie A. Hoshall and Mary E. Jackson, principals, and Will Kirk and M. W. Sipes, sureties, acknowledge ourselves indebted to George M. Traylor, *et al.*, the defendants named in the above mentioned suit, in the sum of two hundred dollars; to be void if the said Sallie J. McDaniel, Nannie A. Hoshall, and Mary E. Jackson shall prosecute with effect an action which they are about to commence in the United States circuit court for the eastern division of the eastern district of Arkansas at Helena, against the said George M. Traylor, *et al.*; or, if they fail to do so, shall pay all such costs as may be awarded against them by any court having cognizance thereof, by appeal or otherwise.

SALLIE J. McDANIEL,
NANNIE A. HOSHALL, AND
MARY E. JACKSON, *Principals*,
By J. R. BEASLEY, *Attorney*.
WILL KIRK,
M. W. SIPES, *Sureties*.

Approved:
EMERSON R. CRUM, *Clerk*.

FORREST CITY, ARK., *March* 26, 1902.

To all whom it may concern:

I hereby certify, that Mr. Will Kirk a merchant of Forrest City, Ark., has two thousand and forty five ($2045.00) of personal property assessed to him of the personal tax book of St. Francis county, Arkansas, and that Mr. M. W. Sipes, a merchant of Forrest City, Ark., has one thousand and fifty (1050.00) dollars, in personal property assessed to him on the personal tax book of St. Francis county, Arkansas. I further certify that either of the gentlemen are good for a two hundred ($200.00) dollar bond.

EUG. WILLIAMS,
Deputy Collector.

Endorsed: No. 105. In the U. S. circuit court, at Helena, Arkansas. Sallie J. McDaniel, *et al.*, *v.* George M. Traylor, *et al.* Bond for cost. Filed March 27th, 1902. Emerson R. Crum, clerk.

14 *Petition for Order of Service.*

In the Circuit Court of the United States for the Eastern Division of the Eastern District of Arkansas.

SALLIE J. MCDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Plaintiffs,
v.
GEORGE M. TRAYLOR ET AL., Defendants. } 105.

The undersigned, Sallie J. McDaniel, Nannie A. Hoshall, and Mary E. Jackson, would respectfully state and show to the court that this is a suit commenced in the circuit court of the United States for the eastern division of the eastern district of Arkansas between Sallie J. McDaniel, Nannie A. Hoshall, and Mary E. Jackson, citizens of the State of Arkansas, plaintiffs, against George M. Traylor, John F. Stratton, John F. Smith, Alfred Wright, and Solon Palmer, citizens and residents of the State of New York; Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, C. F. Simmons Medicine Company, The Dr. J. H. McLean Medicine Company, Augusta Hirschl, Meyer Bendheim, Carl Bendheim, Henry W. Hoyt, adm'r estate of John W. Andrews, deceased, citizens and residents of the State of Missouri; A. S. Aloe Company, a citizen and resident of the State of Illinois; The National Lead Company, a citizen and resident of the State of New Jersey; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, William H. Sternberg, David Sternberg, Solomon Harpman, Memphis Paper Company, and Van Vleet-Mansfield Drug Company, citizens and residents of the State of Tennessee; Meriden Silver Plate Company, a citizen and resident of the State of Connecticut; Claus Shear Company, a citizen and resident of the State of Ohio; and The Coco Cola Company, a citizen and resident of the State of Georgia, defendants, and that said suit is for the pur-

15 pose of annulling, cancelling and setting aside certain orders or judgments of the probate court of St. Francis county, Arkansas, allowing the claims filed by the parties whose names have just been mentioned against the estate of Hiram Evans, deceased, who died in said county on April 13, 1891; that said defendants, George M. Traylor and others, all of whose names and residences have just been stated and particularly set out, are not residents of this State, nor inhabitants of said eastern district of Arkansas, nor found therein, nor have they voluntarily appeared in said action.

Wherefore, plaintiffs pray that this honorable court may make an order directing that said defendants, George M. Traylor, John F.

Stratton, John F. Smith, Alfred Wright, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Brothers Drug Co., Liquid Carbonic Acid Manufacturing Co., C. F. Simmons Medicine Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer Bendheim, Carl Bendheim, Henry W. Hoyt, adm'r estate of John W. Andrews, deceased, A. S. Aloe Co., The National Lead Co., Wm. N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Meriden Silver Plate Co., Claus Shear Co., and The Coco-Cola Company appear, plead, answer or demur in said suit by a day to be named by said court, and that a copy of said order be directed to be served upon them by the United States marshal of the proper district of the United States.

SALLIE J. McDANIEL,
NANNIE A. HOSHALL, &
MARY E. JACKSON,
By J. R. BEASLEY, *Attorney.*

STATE OF ARKANSAS, }
Phillips County. }

J. R. Beasley, one of the attorneys for said plaintiffs, being duly sworn, states on oath that the facts alleged in the foregoing
16 petition are true.

J. R. BEASLEY.

Subscribed and sworn to before me this the 16th day of October, 1902.

EMERSON R. CRUM, *Clerk.*

Endorsed: No. 105. Sallie J. McDaniel, *et al. v.* George M. Traylor, *et al.* Petition for order of service. Filed October 16, 1902. Emerson R. Crum, clerk.

17 *Order for Service.*

October 16th, 1902.

SALLIE J. McDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,
vs.
GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Bros. Drug Co., Liquid Carbonic Acid Mfg. Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Co., National Lead Co., Henry W. Hoyt, Adm'r; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Claus Shear Co., The Coco Cola Co., Alfred Wright, Meriden Silver Plate Co., and C. F. Simmons Medicine Co., Defendants. } # 105.

Now on this day come the complainants and show to the court that they are all citizens of the State of Arkansas, and county of St. Francis; that this is a suit brought by them for the purpose of annulling, cancelling and setting aside certain orders or judgments of the probate court of St. Francis county, Arkansas, allowing claims filed by said George M. Traylor and John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, Dr. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman,
18 Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Company, Claus Shear Company, The Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, against the estate of Hiram Evans, who died in said county on April 13th, 1891; that all of said parties have been made defendants to this suit, and that none of them are residents of the State of Arkansas, or are to be found within the limits of this district, nor have voluntarily appeared thereto.

It is therefore ordered that said George M. Traylor and all of the other defendants to this suit whose names have been heretofore mentioned be required to appear in this court on or before the first Monday in January, 1903, and plead, answer or demur to the bill of

complaint herein, and that in case of their failure to appear on that day a *pro confesso* may be taken against them for their default.

It is also ordered that a copy of this order be served on each of said parties wherever he may be found; such service shall be made by the United States marshal for the proper district of the United States, and the return of said marshal of such service shall be deemed sufficient proof of the service of the order.

JACOB TRIEBER, *Judge.*

19 UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

Be it remembered, that at a circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, begun and holden on Monday, the 13th day of October, A. D., 1902, at the United States court rooms, in the city of Helena, the Honorable Jacob Trieber, district judge presiding and holding said court, the following proceedings were had,

October 16th, 1902, to-wit:

SALLIE J. MCDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,
vs.
GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Bros. Drug Co., Liquid Carbonic Acid Mfg. Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Co., National Lead Co., Henry W. Hoyt, Adm'r; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Claus Shear Co., The Coco Cola Co., Alfred Wright, Meriden Silver Plate Co., and C. F. Simmons Medicine Co., Defendants. } # 105.

Now on this day come the complainants and show to the court that they are all citizens of the State of Arkansas, and the county of St. Francis; that this is a suit brought by them for the purpose of annulling, cancelling and setting aside certain orders or judgments of the probate court of St. Francis county, Arkansas, allowing claims filed by said George M. Traylor and John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, Dr. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, William N. Wilkerson, Thomas H. Chilton, J. C. Menden-

hall, John Doe, Richard Kupperschmidt, Abraham Goodman
20 Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Company, Claus Shear Company, The Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, against the estate of Hiram Evans, who died in said county on April 13th, 1891; that all of said parties have been made defendants to this suit, and that none of them are residents of the State of Arkansas, or are to be found within the limits of this district, nor have voluntarily appeared thereto.

It is therefore ordered that said George M. Traylor and all of the other defendants to this suit whose names have been heretofore mentioned be required to appear in this court on or before the first Monday in January, 1903, and plead, answer or demur to the bill of complaint herein, and that in case of their failure to appear on that day a *pro confesso* may be taken against them for their default.

It is also ordered that a copy of this order be served on each of said parties wherever he may be found; such service shall be made by the United States marshal for the proper district of the United States, and the return of said marshal of such service shall be deemed sufficient proof of the service of the order.

(Signed) JACOB TRIEBER, *Judge.*

UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the above and foregoing two pages, including this certificate, is a true and compared copy of the order for service in the cause wherein Sallie J. McDaniel, *et al.* are complainants, and George M. Traylor, *et al.*, are defendants, as
21 the same remains of record in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, at office in the city of Helena, this the 27th day of October, A. D. 1902, and in the 127th year of our Independence.

Attest:
[SEAL.] EMERSON R. CRUM, *Clerk.*

UNITED STATES OF AMERICA,
Eastern Division of the Eastern Judicial District of Missouri, } *ss:*

I certify that on the 29th day of October, A. D. 1902, at the city of St. Louis, in the eastern judicial district of Missouri, I delivered a true copy of the foregoing order of court in this cause as certified

by the clerk to Theodore F. Meyer, vice president of the within named defendant corporation Meyer Brothers Drug Company, and who was in the business office of said corporation and had charge thereof at the time of said service, the president or other higher chief officer of said corporation could not be found in the said district.

WILLIAM L. MORSEY,
United States Marshal, Eastern District of Missouri,
By E. J. WATSON, *Deputy.*

Fee $2.12

Endorsed: No. 105. Sallie J. McDaniel, *et al. v.* George M. Traylor, *et al.* In U. S. circuit court at Helena, Arkansas. Equity. Certified copy of order for service. Issued, October 27, 1902. Returnable, on or before December 1st, 1902. Returned and filed October 31st, 1902. Emerson R. Crum, clerk. J. R. Beasley and G. B. Webster, solicitors for complainants.

22 UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

Be it remembered, that at a circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, begun and holden on Monday, the 13th day of October, A. D. 1902, at the United States court rooms, in the city of Helena, the Honorable Jacob Trieber, district judge presiding and holding said court, the following proceedings were had,

October 16th, 1902, to-wit:

SALLIE J. MCDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,
vs.
GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Bros. Drug Co., Liquid Carbonic Acid Mfg. Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Co., National Lead Co., Henry W. Hoyt, Adm'r; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Claus Shear Co., The Coco Cola Co., Alfred Wright, Meriden Silver Plate Co., and C. F. Simmons Medicine Co., Defendants. } # 105.

Now on this day come the complainants and show to the court that they are all citizens of the State of Arkansas, and county of

St. Francis; that this is a suit brought by them for the purpose of annulling, cancelling and setting aside certain orders or judgments of the probate court of St. Francis county, Arkansas, allowing claims filed by said George M. Traylor and John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid C-rbonic Acid Manufacturing Company, Dr. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Company, Claus Shear Company, the Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, against the estate of Hiram Evans, who died in said county on April 13th, 1891; that all of said parties have been made defendants to this suit, and that none of them are residents of the State of Arkansas, or are to be found within the limits of this district, nor have voluntarily appeared thereto.

It is therefore ordered that said George M. Traylor and all of the other defendants to this suit whose names have been heretofore mentioned be required to appear in this court on or before the first Monday in January, 1903, and plead, answer or demur to the bill of complaint herein, and that in case of their failure to appear on that day a *pro confesso* may be taken against them for their default.

It is also ordered that a copy of this order be served on each of said parties wherever he may be found; such service shall be made by the United States marshal for the proper district of the United States, and the return of said marshal of such service shall be deemed sufficient proof of the service of the order.

(Signed) JACOB TRIEBER, *Judge.*

UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the above and foregoing two pages, including this certificate, is a true and compared copy of the order for service in the cause wherein Sallie J. McDaniel, *et al.*, are complainants, and George M. Traylor, *et al.*, are defendants, as the same remains of record in my office.

24 In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, at office in the city of Helena, this the 27th day of October, A. D. 1902, and in the 127th year of our Independence.

Attest:

[SEAL.] EMERSON R. CRUM, *Clerk.*

I have executed the within order by leaving a true and correct copy of said order with William M. Wilkerson and Thomas H. Chilton. The other defendants George M. Traylor, John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Wooden Ware Company, Myer Brothers Drug Company, Liquid Carbonic Acid M. F. G. Co., Dr. J. H. McLean Medicine Company, August Hershel, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, adm'r, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Claus Shear Company, Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, are not to be found in my district. The defendants, Memphis Paper Company, and Van Vleet-Mansfield Drug Company reside in my district, but no copies of this order forwarded for them and no service made as to them. This November 8, 1902.

FRANK S. ELGIN,
U. S. Marshal,
By A. C. LEA,
Office Deputy.

Endorsed: No. 105. Sallie J. McDaniel, *et al. v.* George M. Traylor, *et al.* In U. S. circuit court at Helena, Arkansas. Equity. Certified copy of order for service. Issued, October 27, 1902. Returnable, on or before December 1st, 1902. Returned and filed Nov. 13, 1902. Emerson R. Crum, clerk. J. R. Beasley and G. B. Webster, solicitors for complainants. Marshal's fees, $4.10.

25 UNITED STATES OF AMERICA, }
Eastern Division, Eastern District of Arkansas. }

Be it remembered, that at a circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, begun and holden on Monday, the 13th day of October, A. D. 1902, at the United States court rooms, in the city of Helena, the Honorable Jacob Trieber, district judge presiding and holding said court, the following proceedings were had,

October 16th, 1902, to-wit:

SALLIE J. McDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,
vs.
GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Bros. Drug Co., Liquid Carbonic Acid Mfg. Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Co., National Lead Co., Henry W. Hoyt, Adm'r; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Claus Shear Co., The Coco Cola Co., Alfred Wright, Meriden Silver Plate Co., and C. F. Simmons Medicine Co., Defendants. # 105.

Now on this day come the complainants and show to the court that they are all citizens of the State of Arkansas, and county of St. Francis; that this is a suit brought by them for the purpose of annulling, cancelling and setting aside certain orders or judgments of the probate court of St. Francis county, Arkansas, allowing claims filed by said George M. Traylor and John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, Dr. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Company, Claus Shear Company, The Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, against the estate of Hiram Evans, who died in said county on April 13th, 1891; that all of said parties have been made defendants to this suit, and that none of them are residents of the State of Arkansas, or are to be found within the limits of this district, nor have voluntarily appeared thereto.

26

It is therefore ordered that said George M. Traylor and all of the other defendants to this suit whose names have been heretofore mentioned be required to appear in this court on or before the first Monday in January, 1903, and plead, answer or demur to the bill of complaint herein, and that in case of their failure to appear on that day a *pro confesso* may be taken against them for their default.

It is also ordered that a copy of this order be served on each of said parties wherever he may be found; such service shall be made by the United States marshal for the proper district of the United

States, and the return of said marshal of such service shall be deemed sufficient proof of the service of the order.

(Signed) JACOB TRIEBER, *Judge.*

UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the above and foregoing two pages, including this certificate, is a true and compared copy of the order for service in the cause wherein Sallie J. McDaniel, *et al.*, are complainants, and George M. Traylor, *et al.*, are defendants,
27 as the same remains of record in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, at office in the city of Helena, this the 27th day of October, A. D. 1902, and in the 127th year of our Independence.

Attest:

[SEAL.] EMERSON R. CRUM, *Clerk.*

This writ came to hand Nov. 20, 1902, and was executed same date on Solomon Harpman by making known to him contents of this order, and leaving copy of said order with him, as directed.

FRANK S. ELGIN,
U. S. Marshal.
A. C. LEA, *Deputy.*

Marshal's cost in case $2.00.

Endorsed: No. 105. Sallie J. McDaniel *et al. v.* Geo. M. Traylor *et al.* In U. S. circuit court at Helena, Arkansas. Certified copy of order for service. Issued, Oct. 27th, 1902. Returnable, on or before December 1st, 1902. Returned and filed Nov. 24th, 1902. Emerson R. Crum, clerk. J. R. Beasley and G. B. Webster, solicitors for complainants.

28 UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

Be it remembered, that at a circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, begun and holden on Monday, the 13th day of October, A. D. 1902, at the United States court rooms, in the city of Helena, the Honorable Jacob Trieber, district judge presiding and holding said court, the following proceedings were had,

October 16th, 1902, to-wit:

SALLIE J. McDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,
vs.
GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Bros. Drug Co., Liquid Carbonic Acid Mfg. Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Co., National Lead Co., Henry W. Hoyt, Adm'r; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Claus Shear Co., The Coco Cola Co., Alfred Wright, Meriden Silver Plate Co., and C. F. Simmons Medicine Co., Defendants. } # 105.

Now on this day come the complainants and show to the court that they are all citizens of the State of Arkansas, and county of St. Francis; that this is a suit brought by them for the purpose of annulling, cancelling and setting aside certain orders or judgments of the probate court of St. Francis county, Arkansas, allowing claims filed by said George M. Traylor and John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid C-rbonic Acid Manufacturing Company, Dr. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Company, Claus Shear Company, The Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, against the estate of Hiram Evans, who died in said county on April 13th, 1891; that all of said parties have been made defendants to this suit, and that none of them are residents of the State of Arkansas, or are to be found within the limits of this district, nor have voluntarily appeared thereto.

29

It is therefore ordered that said George M. Traylor and all of the other defendants to this suit whose names have been heretofore mentioned be required to appear in this court on or before the first Monday in January, 1903, and plead, answer or demur to the bill of complaint herein, and that in case of their failure to appear on that day a *pro confesso* may be taken against them for their default

It is also ordered that a copy of this order be served on each of said parties wherever he may be found; such service shall be made.

by the United States marshal for the proper district of the United States, and the return of said marshal of such service shall be deemed sufficient proof of the service of the order.

(Signed) JACOB TRIEBER, *Judge.*

UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas, } ss:

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the above and foregoing two pages, including this certificate, is a true and compared copy of the order for service in the cause wherein Sallie J. McDaniel, *et al.*, are complainants, and George M. Traylor, *et al.*, are defendants, as
30 the same remains of record in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, at office in the city of Helena, this the 27th day of October, A. D. 1902, and in the 127th year of our Independence.

Attest:

[SEAL.] EMERSON R. CRUM, *Clerk.*

Marshal's Return.

UNITED STATES OF AMERICA,
Eastern Division of the Eastern Judicial District of Missouri, } ss:

I certify that on the 20th day of November, A. D. 1902, at the city of St. Louis, in the eastern judicial district of Missouri, I delivered a true copy of the foregoing order of court as certified by the clerk to Norman E. Tevis, secretary of the within named defendant corporation The C. F. Simmons Medicine Company, and who was in the business office of said corporation and had charge thereof at the time of said service. The president or other higher chief officer of said corporation could not be found in the eastern district of Missouri.

WILLIAM L. MORSEY,
United States Marshal, Eastern District of Missouri,
By E. J. WATSON, *Deputy.*

Fee $2.12.

Endorsed: No. 105. Sallie J. McDaniel, *et al. v.* Geo. M. Traylor, *et al.* In U. S. circuit court at Helena, Arkansas. Certified copy of order for service. Issued, Oct. 27th, 1902. Returnable, on or before December 1st, 1902. Returned and filed Nov. 24, 1902. Emerson R. Crum, clerk. J. R. Beasley and G. B. Webster, solicitors for complainants.

31 UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

Be it remembered, that at a circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, begun and holden on Monday, the 13th day of October, A. D. 1902, at the United States court rooms, in the city of Helena, the Honorable Jacob Trieber, district judge presiding and holding said court, the following proceedings were had,

October 16th, 1902, to-wit:

SALLIE J. MCDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,
vs.
GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Bros. Drug Co., Liquid Carbonic Acid Mfg. Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Co., National Lead Co., Henry W. Hoyt, Adm'r; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Claus Shear Co., The Coco Cola Co., Alfred Wright, Meriden Silver Plate Co., and C. F. Simmons Medicine Co., Defendants. } #105.

Now on this day come the complainants and show to the court that they are all citizens of the State of Arkansas, and county of St. Francis; that this is a suit brought by them for the purpose of annulling, cancelling and setting aside certain orders or judgments of the probate court of St. Francis county, Arkansas, allowing claims filed by said George M. Traylor and John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, Dr. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman,
32 Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Company, Claus Shear Company, The Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, against the estate of Hiram Evans, who died in said county on April 13th, 1891; that all of said parties have been made defendants to this suit, and that none of them are residents of the

State of Arkansas, or are to be found within the limits of this district, nor have voluntarily appeared thereto.

It is therefore ordered that said George M. Traylor and all of the other defendants to this suit whose names have been heretofore mentioned be required to appear in this court on or before the first Monday in January, 1903, and plead, answer or demur to the bill of complaint herein, and that in case of their failure to appear on that day a *pro confesso* may be taken against them for their default.

It is also ordered that a copy of this order be served on each of said parties wherever he may be found; such service shall be made by the United States marshal for the proper district of the United States, and the return of said marshal of such service shall be deemed sufficient proof of the service of the order.

(Signed) JACOB TRIEBER, *Judge.*

UNITED STATES OF AMERICA, }
Eastern Division, Eastern District of Arkansas. }

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the above and foregoing two pages, including this certificate, is a true and compared copy of the order for service in the cause wherein Sallie J. McDaniel, *et al.*, are complainants, and George M. Traylor, *et al.*, are defendants, as the same remains of record in my office.

33 In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, at office in the city of Helena, this the 27th day of October, A. D. 1902, and in the 127th year of our Independence.

Attest:

[SEAL.] EMERSON R. CRUM, *Clerk.*

I hereby certify, that on the 22nd day of November, 1902, at the city of New York, in my district, I personally served the within certified copy order for service upon the within named defendant John F. Stratton at 62 Grand St., N. Y. city, by exhibiting to him the within certified copy and at the same time leaving with him a copy certified thereof.

WM. HENKEL,
United States Marshal, Southern District of New York.

Dated Nov. 22, 1902.
J. B. B.

Endorsed: No. 105. Sallie J. McDaniel, *et al. v.* Geo. M. Traylor, *et al.* In U. S. circuit court at Helena, Arkansas. Certified copy of order for service. Issued, Oct. 27th, 1902. Returnable, on or before December 1st, 1902. Returned and filed November 25, 1902. Emerson R. Crum, clerk. J. R. Beasley and G. B. Webster, solicitors for complainants.

34 UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

Be it remembered, that at a circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, begun and holden on Monday, the 13th day of October, A. D. 1902, at the United States court rooms, in the city of Helena, the Honorable Jacob Trieber, district judge presiding and holding said court, the following proceedings were had:

October 16th, 1902, to-wit:

SALLIE J. McDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,

vs.

GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Bros. Drug Co., Liquid Carbonic Acid Mfg. Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Co., National Lead Co., Henry W. Hoyt, Adm'r; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Claus Shear Co., The Coco Cola Co., Alfred Wright, Meriden Silver Plate Co., and C. F. Simmons Medicine Co., Defendants. # 105.

Now on this day come the complainants and show to the court that they are all citizens of the State of Arkansas, and county of St. Francis; that this is a suit brought by them for the purpose of annulling, cancelling and setting aside certain orders or judgments of the probate court of St. Francis county, Arkansas, allowing claims filed by said George M. Traylor and John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, Dr. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt,
35 Abraham Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Company, Claus Shear Company, The Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, against the estate of Hiram Evans, who died in said county on April 13th, 1891; that all of said parties have been made defendants to this suit, and

that none of them are residents of the State of Arkansas, or are to be found within the limits of this district, nor have voluntarily appeared thereto.

It is therefore ordered that said George M. Traylor and all of the other defendants to this suit whose names have been heretofore mentioned be required to appear in this court on or before the first Monday in January, 1903, and plead, answer or demur to the bill of complaint herein, and that in case of their failure to appear on that day a *pro confesso* may be taken against them for their default.

It is also ordered that a copy of this order be served on each of said parties wherever he may be found; such service shall be made by the United States marshal for the proper district of the United States, and the return of said marshal of such service shall be deemed sufficient proof of the service of the order.

(Signed) JACOB TRIEBER, *Judge.*

UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the above and foregoing two pages, including this certificate is a true and compared copy of the order for service in the cause wherein Sallie J. McDaniel, *et al.*,
36 are complainants, and George M. Traylor, *et al.*, are defendants, as the same remains of record in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, at office in the city of Helena, this the 27th day of October, A. D. 1902, and in the 127th year of our Independence.

Attest:

[SEAL.] EMERSON R. CRUM, *Clerk.*

UNITED STATES OF AMERICA,
District of Connecticut, } *ss:*

MERIDEN, *Nov.* 28, 1902.

Then and by virtue hereof I made diligent search for the within named Meriden Silver Plate Co. but could not find that they had a corporate existence in this district.

Attest:

EDSON S. BISHOP,
U. S. Marshal,
By PHILIP E. BOWEN,
His Deputy.

Expense.

R. R. fare	.80
Dinner	1.00
	1.80
R. R. fare	.80
	2.60

Endorsed: No. 105. Sallie J. McDaniel *et al. v.* George M. Traylor, *et al.* In U. S. circuit court at Helena, Arkansas. Equity. Certified copy of order for service. Issued, October 27, 1902. Returnable, on or before December 1st, 1902. Returned and filed Dec. 1, 1902. Emerson R. Crum, clerk. J. R. Beasley and G. B. Webster, solicitors for complainants.

37 UNITED STATES OF AMERICA, }
Eastern Division, Eastern District of Arkansas. }

Be it remembered, that at a circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, begun and holden on Monday, the 13th day of October, A. D. 1902, at the United States court rooms, in the city of Helena, the Honorable Jacob Trieber, district judge presiding and holding said court, the following proceedings were had,

October 16th, 1902, to-wit:

SALLIE J. MCDANIEL, NANNIE A. HOSHALL, and MARY E. Jackson, Complainants,

vs.

GEORGE M. TRAYLOR, JOHN F. STRATTON, JOHN F. SMITH, Solon Palmer, Crunden-Martin Woodenware Co., Meyer Bros. Drug Co., Liquid Carbonic Acid Mfg. Co., The Dr. J. H. McLean Medicine Co., Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Co., National Lead Co., Henry W. Hoyt, Adm'r; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abram Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Co., Claus Shear Co., The Coco Cola Co., Alfred Wright, Meriden Silver Plate Co., and C. F. Simmons Medicine Co., Defendants. } # 105.

Now on this day come the complainants and show to the court that they are all citizens of the State of Arkansas, and county of St. Francis; that this is a suit brought by them for the purpose of annulling, cancelling and setting aside certain orders or judgments of

the probate court of St. Francis county, Arkansas, allowing claims filed by said George M. Traylor and John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, Dr. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman,
38 Solomon Sternberg, David Sternberg, Willaim H. Sternberg, Solomon Harpman, Memphis Paper Co., Van Vleet-Mansfield Drug Company, Claus Shear Company, The Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, against the estate of Hiram Evans, who died in said county on April 13th, 1891; that all of said parties have been made defendants to this suit, and that none of them are residents of the State of Arkansas, or are to be found within the limits of this district, nor have voluntarily appeared thereto.

It is therefore ordered that said George M. Traylor and all of the other defendants to this suit whose names have been heretofore mentioned be required to appear in this court on or before the first Monday in January, 1903, and plead, answer or demur to the bill of complaint herein, and that in case of their failure to appear on that day a *pro confesso* may be taken against them for their default.

It is also ordered that a copy of this order be served on each of said parties wherever he may be found; such service shall be made by the United States marshal for the proper district of the United States, and the return of said marshal of such service shall be deemed sufficient proof of the service of the order.

(Signed) JACOB TRIEBER, *Judge.*

UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the above and foregoing two pages, including this certificate, is a true and compared copy of the order for service in the cause wherein Sallie J. McDaniel, *et al.*, are complainants, and George M. Traylor, *et al.*, are defendants, as the same remains of record in my office.

39 In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, at office in the city of Helena, this the 27th day of October, A. D. 1902, and in the 127th year of our Independence.

Attest:

[SEAL.] EMERSON R. CRUM, *Clerk.*

Department of Justice. Office of United States marshal, western district of New York.

ELMIRA, N. Y., *Nov.* 26, 1902.

Emerson R. Crum, Esq., clerk United States courts, Helena, Arkansas.

DEAR SIR: I herewith return writ in the case of McDaniel *et al. vs.* Traylor *et al.*, unserved.

I am informed by my deputy at Rochester, New York, that Alfred Wright, of 333 West avenue, died in 1891. He was engaged in the perfumery business and in 1893 the business was reorganized under the firm name of "Alfred Wright Perfumer." This firm is composed of Alfred *G.* Wright and John S. Wright. Alfred G. Wright is now out of town and his exact location is unknown. He will be away several weeks.

If you desire service to be made upon Alfred G. Wright, kindly change return date and return papers to me and I will endeavor to serve same immediately upon their receipt.

Yours very truly,

WM. R. COMPTON,
U. S. Marshal, W. D. N. Y.

Endorsed: No. 105. Sallie J. McDaniel, *et al. v.* Geo. M. Traylor, *et al.* In U. S. circuit court at Helena, Arkansas, Equity. Certified copy of order for service. Issued, Oct. 27th, 1902. Returnable, on or before December 1st, 1902. Returned and filed December 1st, 1902. Emerson R. Crum, clerk. J. R. Beasley and G. B. Webster, solicitors for complainants.

40 *Record Entry on Filing Demurrer.*

Before the Clerk, January 5th, 1903.

SALLIE J. MCDANIEL ET AL., Complainants,
vs.
GEORGE M. TRAYLOR ET AL., Defendants. } 105.

On this day came the defendants, W. N. Wilkerson & Co., Meyer Bros. Drug Co., S. Harpman, John F. Stratton and The C. F. Simmons Medicine Co., by their solicitors, Messrs. W. N. Norton and R. W. Nicholls, and file their demurrer to the complaint of the complainants herein.

Demurrer to Complaint.

In the Circuit Court of the United States for the Eastern Division of the Eastern Judicial District of Arkansas.

SALLIE J. MCDANIEL, NANNIE A. HOSHALL, and MARY E. JACKSON, Complainants,
vs.
GEORGE M. TRAYLOR ET AL., Defendants.

Demurrer of the defendants W. N. Wilkerson & Co., Meyer Bros. Drug Co., S. Hartman and such other defendants as have been served with process, to-wit, John F. Stratton, C. F. Simmons Medicine Co.

These defendants, by protestation, not confessing any or all of the matters and things in the plaintiff's bill of complaint contained to be true, in such manner and form as the same is therein set forth and alleged, doth demur to said bill, and for cause of demurrer showeth that,

First. That there is no equity in complainants' bill.

Second. That complainants' bill does not state facts suffi-
41 cient to constitute a cause of action, nor to entitle complainants to any relief.

Third. That according to the allegations of said bill the same facts and the same supposed cause of action have been in litigation in the courts of the State of Arkansas and twice appealed to the supreme court and there adjudged. Wherefore, all the matters and things in complainants' said bill alleged are *res adjudicata.*

4th. That this court has no jurisdiction of the parties and subject matter of this action.

5th. And that this court has no jurisdiction of this suit, for want of proper parties defendant.

Wherefore, and for divers other good causes of demurrer appearing in the said bill, the defendants do*th* demur thereto, and humbly demand the judgment of this court whether they shall be compelled to make any further or other answer to the said bill; and pray to be hence dismissed with their costs and charges in this behalf most wrongfully sustained.

N. W. NORTON AND
R. W. NICHOLLS,
Counsel for D'f'ts.

I am of counsel for the defendants who interpose the foregoing demurrer and I hereby certify that in my judgment the said demurrer is well taken.

R. W. NICHOLLS.

STATE OF TENNESSEE, }
County of Shelby. }

I, W. N. Wilkerson, on my oath say that I am one of the defendants in the above entitled cause and that the foregoing demurrer is not interposed for delay.

W. N. WILKERSON.

Subscribed and sworn to before me this 27th day of December, 1902.

[SEAL.] W. R. CROSS,
Notary Public.

My com. expires July 1904.

42 Endorsed: No. 105. Sallie J. McDaniel, *et al. vs.* Geo. M. Traylor, *et al.* Dem. to comp. Filed Jan. 5, 1903. Emerson R. Crum, clerk. Copy of within demurrer forwarded J. R. Beasley, attorney, at Forrest City, Arkansas, this January 6th, 1903. Emerson R. Crum, clerk.

Second day of the March term, 1903, Tuesday, March 10th, 1903.

Presiding and holding said court, Honorable Jacob Trieber, U. S. district —, and other officers as noted on the 9th day of March last past.

In the Circuit Court of the United States, Eastern Division, Eastern District of Arkansas.

SALLIE J. MCDANIEL ET AL., Complainants, }
vs. } 105. Equity.
GEORGE M. TRAYLOR ET AL., Defendants. }

Now on this day come the complainants in open court and present their application for substituted service upon the following named defendants, to-wit: George M. Traylor, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Liquid Carbonic Acid Manufacturing Company, The Dr. J. H. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of John W. Andrews, deceased, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Memphis Paper Company, Van Vleet Mansfield Drug Company, Alfred Wright, Claus Shear Company, The Coco Cola Company, and Meriden Silver Plate Company,

And it appearing to the court that this action is brought for the purpose of enjoining the collection of certain judgments obtained

by the defendants against the estate of Hiram Evans, de-
43 ceased, and removing the cloud cast by the same upon the title to property owned by complainants, as heirs at law of Hiram Evans, dec'd, within the eastern division of the eastern judicial district of Arkansas, and that the aforesaid defendants are absent from said district, and are not residents or inhabitants of said district and cannot be found therein, but are, each and all of them, non-residents of the State of Arkansas, but whose residence complainants have, after due diligence, been unable to ascertain, and that process issued to be served in the districts where they formerly resided, has been returned by the marshal of said districts as not found, and it being shown that they have not entered their appearance herein voluntarily, and that it is not practicable to serve them personally,

It is ordered by the court that they, the defendants hereinabove named, appear and plead, answer or demur to the bill of complaint of the complainants herein on or before the first Monday in June, 1903, or suffer a decree *pro confesso* against them in the event of their failure so to do.

And it is further ordered, that a certified copy of this order be published at least once a week for six consecutive weeks in the Helena Weekly World, a newspaper printed and published within the said district.

JACOB TRIEBER, *Judge.*

44 *Warning Order.*

UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

Be it remembered, that at a circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, begun and holden on Monday, the 9th day of March, A. D. 1903, at the United States court room in the city of Helena, Arkansas, the Honorable Jacob Trieber, United States district judge, presiding and holding said court, the following proceedings were had, to-wit:

March 10th, 1903.

In the Circuit Court of the United States, Eastern Division, Eastern District of Arkansas.

SALLIE J. MCDANIEL ET AL., Complainants,
vs.
GEORGE M. TRAYLOR ET AL., Defendants. } No. 105. Equity.

Now on this day come the complainants in open court and present their application for substituted service upon the following named defendants, to-wit: George M. Traylor, John F. Smith, Solon

Palmer, Crunden-Martin Woodenware Company, Liquid Carbonic Acid Manufacturing Company, The Dr. J. H. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of John W. Andrews, deceased, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Memphis Paper Company, Van Vleet Mansfield Drug Company, Alfred Wright, Claus Shear Company, The Coco Cola Company, and Meriden Silver Plate Company,

And it appearing to the court that this action is brought for the purpose of enjoining the collection of certain judgments obtained by the defendants against the estate of Hiram Evans,
45 deceased, and removing the cloud cast by the same upon the title to property owned by complainants, as heirs at law of Hiram Evans, dec'd, within the eastern division of the eastern judicial district of Arkansas, and that the aforesaid defendants are absent from said district, and are not residents or inhabitants of said district and cannot be found therein, but are, each and all of them, non-residents of the State of Arkansas, but whose residence complainants have, after due diligence, been unable to ascertain, and that process issued to be served in the districts where they formerly resided, has been returned by the marshal of said districts as not found, and it being shown that they have not entered their appearance herein voluntarily, and that it is not practicable to serve them personally,

It is ordered by the court that they, the defendants hereinabove named, appear and plead, answer or demur to the bill of complaint of the complainants herein on or before the first Monday in June, 1903, or suffer a decree *pro confesso* against them in the event of their failure so to do.

And it is further ordered, that a certified copy of this order be published at least once a week for six consecutive weeks in the Helena Weekly World, a newspaper printed and published within the said district.

(Signed) JACOB TRIEBER, *Judge.*

UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas,

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the above and foregoing writing annexed to this certificate is a true and compared copy of the order of court in the cause wherein Sallie J. McDaniel, *et al.*, are complainants, and George M. Traylor, *et al.*, are defendants, as the
46 original remains of record in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at office in the city of Helena, this the

16th day of March, A. D. 1903, and of the Independence of the United States the 127th.

Attest:

[SEAL.] EMERSON R. CRUM, *Clerk.*

Certificate of Publication.

STATE OF ARKANSAS, }
County of Phillips. }

I, T. J. Mitchell, do swear that I am chief accountant of the Helena Daily and Weekly World, a newspaper printed and having a *bona fide* circulation in said county, and which has been regularly published in said county for the period of one month next before the date of the first publication of the annexed advertisement, and do swear that said advertisement was published in the Weekly World for six consecutive times next before the 23rd of April, 1903, by six insertions in said paper, viz: in the issues of March 18th, 25th, April 1st, 8th, 15th & 22nd.

T. J. MITCHELL.

Sworn and subscribed to before me this 22 day of April, 1903.

[SEAL.] C. C. AGEE, *N. P.*

My commission expires on the 13 day of Sept. 1903.

Endorsed: No. 105. Sallie J. McDaniel, *et al. vs.* Geo. M. Traylor, *et al.* Proof of publication. Filed April 23, 1903. Emerson R. Crum, clerk.

47 Nineteenth day of the March term, 1903, Monday, July 13th, 1903.

Presiding, Honorable Jacob Trieber, U. S. district judge.

Decree.

SALLIE J. MCDANIEL ET AL., Complainants, }
vs. } 105.
GEORGE M. TRAYLOR ET AL., Defendants. }

The court being sufficiently advised as to what judgment to render on the demurrer to the jurisdiction of the court, heretofore submitted, and by the court taken under advisement, doth sustain the same.

It is therefore ordered, adjudged and decreed by the court that complainants' bill be dismissed for want of jurisdiction.

JACOB TRIEBER, *Judge.*

Opinion of the Court.

In the Circuit Court of the United States for the Eastern Division of the Eastern District of Arkansas.

SALLIE J. McDANIEL ET AL., Complainants,
vs.
GEORGE M. TRAYLOR ET AL., Defendants.

On demurrer to jurisdiction.

G. B. Webster, and J. R. Beasley, for complainants.
N. W. Norton and R. W. Nicholls, for defendants.

TRIEBER, *District Judge:*

This action was instituted by complainants, children and heirs at law of Hiram Evans, who died intestate seized of considerable personal property and valuable real estate lying and situate in this district. The object of the bill is to set aside as fraudulent a number of judgments rendered by the probate court of St. Francis county, Arkansas, in favor of the defendants against the estate of
48 their deceased father which are liens on the real estate, which, by the laws of descent of the State of Arkansas, has been inherited by complainants.

The value of the real estate, affected by the liens of these judgments, exceeds two thousand dollars, it is alleged in the bill, and so does the aggregate amount of the judgments of all the defendants, but no one of the judgments in favor of any one of the defendants exceeds that sum.

The diversity of citizenship necessary to give a national court jurisdiction is shown by the bill, and the only question to be determined is whether the amount necessary to confer jurisdiction on this court, is the aggregate amount of the judgments in favor of all the defendants, or whether each defendant's judgment must exceed the sum of two thousand dollars, exclusive of interest.

Although numerous defendants have been joined in the suit, the proceeding is, in fact, against each defendant separately. There is no allegation in the bill which makes the defendants liable jointly. Each of the judgments in favor of the numerous defendants stands separately and requires separate proof as to its invalidity. If a decree is rendered in favor of the complainants against all defendants, it must be entered against each one separately, as in cases of separate suits.

Such being the case, the value of the matter in dispute with each defendant must be the sum of his own judgment, and these separate and distinct interests cannot be joined for the purpose of making up the proper amount necessary to give this court jurisdiction.

Cases direct in point as to the jurisdiction of the circuit court are Walter *vs.* Railroad Company, 147 U. S. 370; Railroad Company *vs.* Walter, 148 U. S. 392; Fishback *vs.* Western Union Telegraph Co. 161 U. S. 96; Citizens Bank *vs.* Cannon, 164 U. S. 319.

49 In Walter *vs.* Railroad Company, the court says:

"Is the plaintiff entitled to join them all in a single suit in a Federal court and sustain the jurisdiction by reason of the fact that the total amount involved exceeds two thousand dollars? We think not. It is well settled in this court that when two or more plaintiffs, having separate interests, unite for the convenience of litigation in a single suit, it can only be sustained in the court of original jurisdiction, or on appeal in this court, as to those whose claims exceed the jurisdictional amount, and that when two or more defendants are sued by the same plaintiffs in one suit, the test or jurisdiction is the joint or several character of the liability of the plaintiff." 147 U. S. 373.

The cases in which the Supreme Court has dismissed appeals in which the jurisdiction of that court depended on the amount involved, are based upon the same principle. They are too numerous to cite, but a large number of them are collected in the opinion of the court in Gibson *vs.* Shufeldt, 122 U. S. 27.

As stated by Mr. Justice Bradley, in Clay *vs.* Field, 138 U. S. 464–479:

"The general principle observed in all cases is that if several persons be joined in a suit in equity or admiralty and have a common and undivided interest, though separable as between themselves, the amount of their joint claim of liability will be the test of jurisdiction, but when their interests are distinct and they are joined for the sake of convenience only, and because they form a class of parties whose rights or liabilities arose out of the same transaction, or have relation to a common fund or mass of property sought to be administered, such distinct demands or liabilities cannot be aggregated together for the purpose of giving this court jurisdiction by appeal, but each must stand or fall by itself alone."

50 Nor can the jurisdiction of the court be sustained upon the ground that the value of the real estate, on which these judgments are liens and consequently clouds on complainants' title, exceeds the sum of two thousand dollars, for the value in dispute is not the value of the property on which the judgment is a lien, but the amount of each judgment, or the amount each defendant will have to be paid to release his lien, if his judgment is not set aside. Linehan *vs.* Pendergrass, 15 C. C. A. 585, 70 Fed. 1; Werner *vs.* Murphy, 60 Fed. (C. C.) 769; Busey *vs.* Smith 67 Fed. (C. C.) 13.

"By matter in dispute," says the Supreme Court, "is meant the subject of litigation; the matter for which the suit is brought, and upon which the issue is joined, and in relation to which jurors are called, and witnesses examined." Lee *vs.* Watson 1 Wall. 337. What is the matter for which the suit is brought? Not the title to

the land, but to cancel judgments, which incidentally are liens on the land.

The rule would be different if the cloud on the title consisted of a claim on the part of the defendants which would affect the absolute title of the property and which could not be discharged by the payment of money. In such a case, the title to the land being involved, its value determines the jurisdiction of the court. This distinction is fully recognized in the principal case relied upon by counsel for complainants. Woodside *vs.* Cieroni, 35 C. C. A. 177, 93 Fed. 1.

The demurrer to the jurisdiction must be sustained and the bill dismissed.

Endorsed: # 105. Sallie J. McDaniel, *et al. vs.* Geo. M. Traylor, *et al.* Opinion. Filed June 21, 1903. Emerson R. Crum, clerk.

51 *Record Entry on Petition for Appeal and Order Granting Same.*

September 23rd, 1903.

SALLIE J. MCDANIEL ET AL., Complainants,
vs.
GEORGE M. TRAYLOR ET AL., Defendants. } 105.

On this day come the complainants, by their solicitors, Messrs. G. B. Webster and J. R. Beasley, and file their petition for appeal, assignment of errors, and bond on appeal, in this cause, which said petition for appeal is endorsed as follows: "Appeal allowed, returnable in thirty days upon execution of a cost bond for $250.00, which is presented and approved.

JACOB TRIEBER,
U. S. Dist. Judge, Eastern District of Ark.

Petition for Appeal.

In the Circuit Court of the United States for the Eastern Division of the Eastern District of Arkansas.

SALLIE J. MCDANIEL ET AL., Complainants,
vs.
GEORGE M. TRAYLOR ET AL., Defendants. } No. 105. Equity.

The complainants in the above entitled cause, believing themselves aggrieved by the decree dismissing their bill for want of jurisdiction, heretofore rendered and entered of record therein, do hereby appeal from the said order and decree to the Supreme Court of the United States, for the reasons set out in the assignment of errors

hereto attached, and pray that their appeal may be allowed, and that a transcript of the record and proceedings upon which said decree was entered, duly authenticated, may be sent to the said Supreme Court.

G. B. WEBSTER,
J. R. BEASLEY,
Solicitors for Complainants.

52 Appeal allowed, returnable in thirty days upon execution of a cost bond for $250.00, which is presented and approved.

JACOB TRIEBER,
U. S. Dist. Judge, Eastern District of Ark.

Endorsed: No. 105. Sallie J. McDaniel, *et al.*, complainants, *vs.* George M. Traylor, *et al.*, defendants. In U. S. circuit court at Helena, Arkansas. Petition for appeal. Filed Sept. 23, 1903. Emerson R. Crum, clerk.

Assignment of Errors.

In the Circuit Court of the United States for the Eastern Division of the Eastern District of Arkansas.

SALLIE J. MCDANIEL ET AL., Complainants,
vs.
GEORGE M. TRAYLOR ET AL., Defendants.

Now come the complainants in the above entitled cause by their solicitors and say that the decree heretofore rendered therein is erroneous and against their just rights for the following reasons, to-wit:

1. Because the said circuit court erred in denying its own jurisdiction therein.

2. Because it was error on the part of the circuit court to sustain the demurrer of the defendants therein for want of jurisdiction and error to dismiss the complainants' bill upon the said demurrer for that reason.

Wherefore for these reasons and causes apparent upon the face of the record therein, the said complainants pray that the said errors may be corrected, and the decree rendered and entered as aforesaid by the said circuit court of the United States for the eastern division of the eastern judicial district of Arkansas may be set aside
53 and for naught held and esteemed, and that the said circuit court may be directed by the honorable the Supreme Court of the United States to take jurisdiction of the said cause and to proceed further therein as equity and justice may require.

G. B. WEBSTER,
J. R. BEASLEY,
Solicitors for Complainants.

Endorsed: No. 105. Equity. In the circuit court of the United States for the eastern division of the eastern district of Arkansas. Sallie J. McDaniel, *et al.*, plaintiffs *vs.* George M. Traylor, *et al.*, defendants. Assignment of errors. Filed Sept. 23, 1903. Emerson R. Crum, clerk.

Bond on Appeal.

Know all men by these presents, that we, Sallie J. McDaniel, Mary E. Jackson and Nannie A. Hoshall, principals, and Daniel Wylds and S. T. McDaniel, sureties, are held and firmly bound unto George M. Traylor, John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, The Dr. J. H. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of estate John W. Andrews, deceased, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Company, Van Vleet-Mansfield Drug Company, Claus Shear Company, Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, in the full and just sum of ($250.00) two hundred and fifty dollars, to be paid to them, their heirs, executors, administrators or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors and administra-
54 tors, jointly and severally by these presents.

Sealed with our seals, and dated this the 5th day of September in the year of our Lord one thousand nine hundred and three.

Whereas lately, at the March term, A. D. 1903, of the circuit court of the United States for the eastern division of the eastern district of Arkansas, in a suit pending in said court between Sallie J. McDaniel, Mary E. Jackson and Nannie A. Hoshall, plaintiffs, and George M. Taylor, John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, The Dr. J. H. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator of the estate of John W. Andrews, deceased, William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, David Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Company, Van Vleet-Mansfield Drug Company, Claus Shear Company, Coco Cola Company, Alfred Wright, Meriden Silver Plate Company, and C. F. Simmons Medicine Company, defendants, judgment was rendered against the said plaintiffs, Sallie J. McDaniel, Mary E. Jackson and Nannie A. Hoshall, and the said plaintiffs have taken an appeal to

the United States Supreme Court to reverse the judgment in the aforesaid suit and obtained a citation directed to the said defendants George M. Traylor *et al.*, citing and admonishing them to be and appear in the United States Supreme Court at the city of Washington, in the District of Columbia, thirty days from and after the date of said citation.

Now, the condition of the above obligation is such, that if the said Sallie J. McDaniel, Mary E. Jackson, and Nannie A. Hoshall shall prosecute said appeal to effect, and answer all costs if they fail to make good their appeal, then the above obligation to be void, else to remain in full force and virtue.

55 Sealed and delivered in presence of

SALLIE J. McDANIEL. [SEAL.]
MARY E. JACKSON. [SEAL.]
NANNIE A. HOSHALL. [SEAL.]
DANIEL WYLDS. [SEAL.]
S. T. McDANIEL. [SEAL.]

Approved
JACOB TRIEBER,
U. S. Dist. Judge, East. Dist. of Ark.

Endorsed: No. 105. Sallie J. McDaniel, *et al.*, *vs.* George M. Traylor, *et al.* In U. S. circuit court at Helena, Arkansas. Bond on appeal. Filed Sept. 23, 1903. Emerson R. Crum, clerk.

Certificate as to Appeal Bond.

STATE OF ARKANSAS, }
St. Francis County. }

I, George B. Mallory, clerk of the circuit and chancery courts of St. Francis county, Arkansas, do hereby certify that I am personally acquainted with Dan Wylds and S. T. McDaniel, whose names appear as sureties on appellants' appeal bond in the case of Sallie J. McDaniel, *et al. v.* George M. Traylor, *et al.* recently decided by the United States circuit court at Helena, Ark.; that said Wylds and S. T. McDaniel are substantial farmers in St. Francis county, and are owners of property much in excess of their exemptions under the law; that there is no mortgage or mortgages on the property of either of them on record in the recorder's office of said county; and that in my judgment their names as sureties on said appeal bond for $250.00 makes the bond perfectly good for that amount.

56 Witness my hand, this Sept. 7, 1903.

G. B. MALLORY, *Clerk.*

Endorsed: No. 105. Sallie J. McDaniel, *et al. vs.* George M. Traylor, *et al.* In U. S. circuit court at Helena, Arkansas. Certificate as to cost bond. Filed Sept. 23, 1903. Emerson R. Crum, clerk.

57 THE UNITED STATES OF AMERICA:

To George M. Traylor, John F. Stratton, John F. Smith, Solon Palmer, Crunden-Martin Woodenware Company, Meyer Brothers Drug Company, Liquid Carbonic Acid Manufacturing Company, The Dr. J. H. McLean Medicine Company, Augusta Hirschl, Meyer H. Bendheim, Carl Bendheim, A. S. Aloe Company, National Lead Company, Henry W. Hoyt, administrator; William N. Wilkerson, Thomas H. Chilton, J. C. Mendenhall, John Doe, Richard Kupperschmidt, Abraham Goodman, Benjamin Goodman, Solomon Sternberg, William H. Sternberg, Solomon Harpman, Memphis Paper Company, Van Vleet-Mansfield Drug Company, Claus Shear Company, Coco Cola Company, Alfred Wright, Meridan Silver Plate Company, and C. F. Simmons Medicine Company, Greeting:

You are hereby cited and admonished to be and appear in the United States Supreme Court thirty days from and after the day this citation bears date, pursuant to an order allowing an appeal, filed in the clerk's office of the circuit court of the United States for the eastern division of the eastern judicial district of Arkansas, wherein Sallie J. McDaniel, Nannie A. Hoshall and Mary E. Jackson are appellants, and you are appellees, to show cause, if any there be, why the judgment rendered against the said appellants, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Jacob Trieber judge of the district court of the United States for the eastern district of Arkansas, sitting as circuit judge, this 19th day of September in the year of our Lord one thousand nine hundred and three.

JACOB TRIEBER,
United States District Judge for the Eastern District of Arkansas, Sitting as Circuit Judge.

Service of this citation is hereby waived for such of the defendants as were served with process.

Octo. 2nd 1903.

N. W. NORTON,
Of Counsel for Def'ts & Appellees.
MEYER BROS. DRUG CO.,
Per R. W. NICHOLLS, *Its Counsel.*

58 [Endorsed:] No. 105. United States circuit court, eastern division of the eastern judicial district of Arkansas. Sallie J. McDaniel *et al. vs.* George M. Traylor *et al.* Citation. Filed October 12th 1903. Emerson R. Crum, clerk.

59 UNITED STATES OF AMERICA,
Eastern Division, Eastern District of Arkansas.

I, Emerson R. Crum, clerk of the circuit court of the United States, in and for the eastern division of the eastern district of Arkansas, do hereby certify that the foregoing pages hereto attached, numbered from one to fifty-eight inclusive, including this certificate, is a true and compared copy of the record and proceedings in the cause wherein Sallie J. McDaniel, *et al.*, are complainants, and George M. Traylor, *et al.*, are defendants, as the same remains of record and on file in my office.

In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, at office in the city of Helena, this the 12th day of October, A. D. 1903.

{Seal of the United States Circuit Court, Eastern Division of the Eastern Judicial District of Arkansas.}

EMERSON R. CRUM, *Clerk.*

Endorsed on cover: File No. 19,095. E. Arkansas C. C. U. S. Term No. 129. Sallie J. McDaniel, Nannie A. Hoshall, and Mary E Jackson, appellants, *vs.* George M. Traylor, John F. Stratton, John F. Smith, *et al.* Filed October 22d, 1903. File No. 19,095.